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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,040	10/16/2003	Kevin P. Connors	ALTU-530	8964
28584	7590	03/25/2005	EXAMINER	
STALLMAN & POLLOCK LLP SUITE 2200 353 SACRAMENTO STREET SAN FRANCISCO, CA 94111			FARAH, AHMED M	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/687,040	Applicant(s) CONNORS ET AL.	
	Examiner Ahmed M Farah	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-21, 23-32 and 53-55 is/are allowed.
- 6) ☒ Claim(s) 1-18, 22, 33-52 and 56-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11-18, 22, 33-52, and 56-60 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson et al. U.S. Patent No. 5,735,844.

As to claims 11, 41, and 56, Anderson et al. teach a treatment device for hair removal, the device comprising: a body having a skin contacting surface (see Figure 10B); a skin cooling lens 116; an optical fiber 114 for delivering treatment energy through the skin contacting lens 116; and coolant delivery line 118 for cooling the skin contacting lens 116. As illustrated in Fig. 10 of Anderson et al., a recessed window is regarded as slot, 110. Also, the window is laterally offset from the cooling surface wherein an air gap is disposed between the window and the top portion of patients' skin. Further, according to Col. 4, lines 39-59, laser parameters such as pulse duration and intensity or pulse amplitude can be adjustably controlled. Further, according to Col. 4, lines 39-59, laser parameters such as pulse duration and intensity or pulse amplitude can be adjustably controlled.

Art Unit: 3739

As to claims 41 and 56, since the lens 116 is transparent to light, the air gap can be used for viewing.

As to claim 33, Figure 2 of Anderson depicts a skin treatment device comprising: a body having a skin contacting end (lens 46); a skin cooling element (cooling chamber with cooling inlet and outlet ports 50 and 52, respectively); a radiation source carried by the body and positioned to transmit tissue damaging radiation to a patient's skin (optical fiber 16); and a lens system 46, 48, carried by the body, and positioned between the light radiation source 16 and the patient's skin 20 as presently claimed.

As to the recitation in claim 33 that the "focal length of the lens system can be varied," Anderson clearly teaches that the lens system has a variable focal length in the range of between 0.5 and 2 cm. He further teaches, "Control over the surface shape of the contact device," i.e., lens 46, allows convergence of the light irradiated to the skin (see col. 6, lines 10-20). This clearly shows that the focal length of the lens system is controllable of the desired range.

Further, according to Col. 4, lines 39-59, laser parameters such as pulse duration and intensity or pulse amplitude can be adjustably controlled.

As to claims 30-32, Table 1 of Anderson et al. teaches the recited parameters of the treatment device.

Allowable Subject Matter

Claims 19-21, 23-32 and 53-55 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: as to claim 23, the prior art of record fails to teach or suggest a method of treating patient's skin with an optical energy, comprising the steps of determining the diameter of a structure in a patient's tissue, selecting a desired parameters of the irradiation light, and irradiating said structure as claimed, wherein the step of selecting is performed so that treatment of structure having smaller diameters results in shorter pulse duration than the treatment of larger structure diameters.

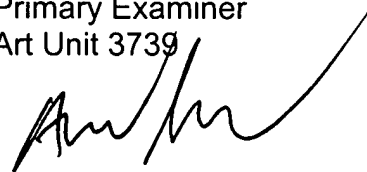
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M DVorak can be reached on (571) 272-4768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ahmed M Farah
Primary Examiner
Art Unit 3739

A handwritten signature in black ink, appearing to read 'Ahmed M Farah', written over the printed name.

March 21, 2005.